IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4806 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAVUBHA NARANSING JADEJA

Versus

TAL. PANCHAYAT

Appearance:

1. Special Civil Application No. 4806 of 1987

MR MUKESH H RATHOD for Petitioner No. 1

MR ND NANAVATI for Respondent No. 1

MR HS MUNSHAW for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 06/05/2003

ORAL JUDGEMENT

What is challenged in this petition under Article 227 of the Constitution is the judgment and award dated

5.12.1986 passed by the Labour Court, Rajkot in Reference (LCR) No.346 of 1983 whereby the Labour Court directed the respondent- Taluka Panchayat, Upleta only to pay the compensation of Rs.1000/- in lieu of reinstatement and backwages with a further direction for payment of costs of Rs.250/- to the workman.

2. The petitioner was employed as a Peon at the Veterinary Hospital run by the respondent- Taluka Panchayat. He was appointed as a temporary Peon at the Veterinary Hospital on 5.3.1981 and he was discharged from service on 3.9.1982. The Labour Court has held the termination to be illegal on the ground that there was non-compliance with the mandatory provisions of Section 25F of the Industrial Disputes Act, 1947. However, the Labour Court declined to grant the relief of reinstatement on the ground that regular appointment was made to the aforesaid post more than 4 years before the date of passing the award. The Labour Court, therefore, awarded lumpsum compensation of Rs.1000/- in lieu of reinstatement and backwages.

3. The present petition is filed by the workman for challenging the aforesaid award in so far as the Labour Court has refused to grant the relief of reinstatement and full backwages.

4. Mr Rathod, learned advocate for the petitioner has submitted that once the termination order is found to be illegal, the Labour Court is bound to award reinstatement with backwages and, therefore, the petition deserves to be allowed.

5. The learned counsel for the respondent has, however, submitted that since the post in question was filled in by regular appointment during pendency of the Reference before the Labour Court, the Labour Court has rightly refused reinstatement and has awarded compensation of Rs.1000/-, which order is not required to be disturbed.

6. Having heard the learned counsel for the parties, it appears to the Court that since the petitioner was appointed as a Peon only temporarily and his services were brought to an end for making regular appointment and the post has been filled in by regular appointment during pendency of the Reference, the Labour Court was justified in refusing the relief of reinstatement. The Labour Court, therefore, rightly considered the other alternative of awarding lumpsum compensation in lieu of reinstatement and backwages. At the same time, the

paltry amount of Rs.1000/- is too meagre to be treated as a lumpsum compensation in lieu of reinstatement and backwages. Having regard to the fact that the petitioner had already put in about 1 year and 6 months' service and the Reference had remained pending for almost 5 years, the petitioner deserves to be awarded a suitable lumpsum compensation in lieu of reinstatement as well as backwages.

Having regard to the aforesaid facts and also the fact that the petition has remained pending before this Court for more than 15 years, it appears to the Court that the interests of justice would be served if a sum of Rs.15,000/- (Rupees Fifteen thousand only) is paid as lumpsum compensation in lieu of reinstatement and backwages to the petitioner.

7. The respondent shall accordingly pay Rs.15,000/(including Rs.1000/- awarded by the Labour Court) to the petitioner within one month from the date of receipt of the writ of this Court or a certified copy of this order, whichever is earlier.

The petition is accordingly disposed of in the aforesaid terms. Rule is made absolute to the aforesaid extent only with no order as to costs.

(M.S. Shah, J)

zgs/-